

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

05-CR-351S

MICHAEL KUJAWA,

Defendant.

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**FINAL ORDER OF FORFEITURE**

**WHEREAS**, on December 19, 2005, the Defendant entered into a Plea Agreement with the United States in which the Defendant admitted and agreed that he had obtained \$240,000.00 in monies involved in and/or proceeds from the offense alleged in Count I of the Information, to which the Defendant pleaded guilty; and

**WHEREAS**, a Preliminary Order of Forfeiture in this matter was entered on December 22, 2005, forfeiting Two Hundred Forty Thousand dollars (\$240,000.00) to be secured by an entry of a money judgment; and

**WHEREAS**, it appears the Defendant has already returned \$25,000.00 of said proceeds to an identified victim of the offense alleged in Count I of the Information; and

**WHEREAS**, Rule 32.2(c)(1) provides that "no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment;" and

**WHEREAS**, the Defendant has consented to the entry of the Final Order of Forfeiture before sentencing; and

**WHEREAS**, the Preliminary Order of Forfeiture also indicated the defendant would forfeit the following as substitute assets, each to partially satisfy the money judgment:

1. The premises and real property with all buildings, appurtenances and improvements located at 104 S. Picacho Heights Road, Eloy, Arizona 85231, as more fully described in a certain deed recorded in Pinal County Clerk's Office, and

2. The premises and real property with all buildings, appurtenances and improvements located at 110 S. Picacho Heights Road, Eloy, Arizona 85231, as more fully described in a certain deed recorded in Pinal County Clerk's Office, and

3. The premises and real property with all buildings, appurtenances and improvements located at 8211 W. Mystery Drive, Arizona City, Arizona 85223, as more fully described in a certain

deed recorded in Pinal County Clerk's Office, and

4. The premises and real property with all buildings, appurtenances and improvements located at 140 S. Ash Lane, Eloy, Arizona 85231, as more fully described in a certain deed recorded in Pinal County Clerk's Office, and

5. The premises and real property with all buildings, appurtenances and improvements located at 454 E. Hinton Road, Eloy, Arizona 85231, as more fully described in certain deeds recorded in Pinal County Clerk's Office, and

6. The premises and real property with all buildings, appurtenances and improvements located at 462 E. Hinton Road, Eloy, Arizona, 85231, as more fully described in certain deeds recorded in Pinal County Clerk's Office, and

7. The premises and real property with all buildings, appurtenances and improvements located at 14654 S. 25<sup>th</sup> Street, Phoenix, Arizona 85048, as more fully described in certain deeds recorded in Maricopa County Clerk's Office; and

**WHEREAS**, the defendant has an interest in each of the above-mentioned properties that are subject to forfeiture pursuant to 18 U.S.C. § 981, 21 U.S.C. § 853(p) and 28 U.S.C. § 2461; and

**WHEREAS**, the Preliminary Order of Forfeiture also directed that the government commence proceedings to determine the rights of

third parties, if any, in each of the above mentioned properties;  
and

**WHEREAS**, the United States caused to be published in the Citizen Publishing Company in Pima County and Arizona Business Gazette in Maricopa County, newspapers of general circulation in Southern Arizona, notice of these forfeitures as substitute properties and of the intent of the United States to dispose of these properties in accordance with law and as specified in the Preliminary Order, and further notifying all third parties of their right to petition the Court within thirty (30) days for a hearing to adjudicate the validity of their alleged legal interest in these properties; and

**WHEREAS**, no timely petitions/claims have been filed by Argent Mortgage Co. LLC and/or any of their successors regarding the properties located at 110 S. Picacho Heights Road, Eloy, AZ and 140 S. Ash Lane, Eloy, AZ and no timely petitions/claims have been filed by Shirley Coomer, the defendant's wife, regarding the properties located at 454 E. Hinton and 462 E. Hinton, Eloy, AZ even though Argent Mortgage and Coomer were sent direct notice of the forfeitures; and

**WHEREAS**, petitions have been filed by Washington Mutual Bank F.A. regarding the property located at 104 S. Picacho Heights, Eloy, AZ; by U.S. Bank National Association regarding the property located at 8211 W. Mystery Drive a/k/a 8211 W. Cloud, Arizona City, AZ; and by EverHome Mortgage Company regarding the properties located at 454 E. Hinton Road, Eloy, AZ and 462 E. Hinton Road, Eloy, AZ, each seeking an amendment of the Preliminary Order to reflect their previously recorded mortgage interest in said properties; and

**WHEREAS**, the government acknowledges and accepts said petitions and the interests of said banks to the extent of the principal and stated interest accumulated but unpaid to the date of sale and an agreed upon escrow advance for each petition; and

**WHEREAS**, an ancillary proceeding will not be necessary as the government and the petitioner banks agree that when the government forfeits the properties named in the petitions aforesaid, that the United States Marshals ("USMS") shall sell each property in a commercially reasonable manner according to law and that after the government's expenses are deducted from the proceeds of each sale, the USMS shall pay any outstanding real property taxes owing on each parcel and then the unpaid principal and interest and escrow advances for real property taxes to the date of sale on said

mortgage loans to Washington Mutual Bank F.A., U.S. Bank National Association, and EverHome Mortgage Company regarding each of the above named properties and after such payments, any excess from the proceeds of each sale shall be applied toward the defendant's money judgment; therefore it is

**HEREBY ORDERED, ADJUDGED AND DECREED** that the Defendant shall forfeit to the United States the sum of \$215,000.00, to be secured by entry of a money judgment in that amount and this Final Order of Forfeiture, pursuant to Title 18, United States Code, Section 981(a)(1), incorporating all of the relevant terms and conditions contained in the Preliminary Order of Forfeiture and that hereby, as of this date, this is the Final Order of Forfeiture in this case; and

**IT IS FURTHER ORDERED,** that with the consent of the defendant pursuant to Federal Rules of Criminal Procedure, Rule 32.2(b)(3), and with the consent of the petitioner banks and government as aforesaid, this Final Order of Forfeiture be entered before sentencing and shall be made part of his sentence, and included in the judgment, and

**IT IS FURTHER ORDERED,** that the sum of \$41,346.69, previously submitted to the government by the defendant in anticipation of this Order, be and hereby is forfeited and credited toward and in partial satisfaction of the money judgment aforesaid, and

**IT IS FURTHER ORDERED,** that 110 S. Picacho Heights Road, Eloy, AZ; 140 S. Ash Lane, Eloy, AZ; 104 S. Picacho Heights, Eloy, AZ; 8211 W. Mystery Drive a/k/a 8211 W. Cloud, Arizona City, AZ; 454 E. Hinton Road, Eloy, AZ and 462 E. Hinton Road, Eloy, AZ, are hereby forfeited to the United States of America pursuant to 21 U.S.C. § 853(p) and that all right, title and interest to the above-mentioned properties are condemned, forfeited and vested in the United States of America, and shall be disposed of according to law; and

**IT IS FURTHER ORDERED,** that all other persons and entities noticed in this action: Argent Mortgage Co. LLC and/or its successors, Shirley Coomer, the defendant's wife, and Mortgage Electronic Registration Systems Inc. are now and forever precluded and barred from asserting any right or interest in the properties listed in the preceding paragraph.

**IT IS FURTHER ORDERED,** that the USMS take custody and control of each aforementioned property to maintain and preserve each property, in accordance with law, and forthwith sell each property, in a commercially reasonable manner; and

**IT IS FURTHER ORDERED,** that the USMS pay first from the proceeds of each sale of substitute assets aforementioned, the expenses of custody and sale incurred by the government, any outstanding real estate taxes and then the unpaid principal and interest as to each asset alleged in the petitions filed by Washington Mutual Bank F.A., U.S. Bank National Association, and EverHome Mortgage Company and escrow advances as aforesaid. Any excess from the proceeds of each sale after said payments shall be applied and credited toward the defendant's money judgment; and

**IT IS FURTHER ORDERED,** that the United States District Court shall retain jurisdiction in the case for the purpose of enforcing this Order; and

**IT IS FURTHER ORDERED,** that the United States may, at any time, move pursuant to Rule 32.2(e) to amend this Final Order of Forfeiture to include substitute properties other than and in addition to the properties already named in the Preliminary Order of Forfeiture including 14654 South 25<sup>th</sup> Street, Phoenix, AZ, and



directing sale of same up to an aggregate net value of \$173,653.31 and only to satisfy the money judgment in such amount as remains due and owing at the time of such amendment, in whole or in part; and

**IT IS FURTHER ORDERED,** that the Clerk of the Court shall forward six certified copies of this Order to the United States Attorney's Office, Attn: William J. Knapp, Assistant U.S. Attorney.

DATED: Buffalo, New York,  
June 13, 2008.

/s/William M. Skretny  
WILLIAM M. SKRETNY  
UNITED STATES DISTRICT JUDGE